

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of

Federal-State Joint Board on
Universal Service; Review of the
Definition of Universal Service

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CC Docket No. 96-45

REPLY COMMENTS OF N. E. COLORADO CELLULAR, INC.

N. E. Colorado Cellular, Inc. (“NECC”)¹ hereby submits its Reply Comments in response to the Public Notice issued in the captioned proceeding by the Federal Communications Commission (“Commission”).² In that Public Notice, the Federal-State Joint Board (“Joint Board”) seeks comment regarding its review of the list of “core” services eligible for universal service support.

I. INTRODUCTION

NECC supports the efforts of the Commission and the Joint Board in conducting this reassessment of the list of core services. This periodic review is both mandated by law and warranted by the need to ensure the proper functioning of the federal Universal Service Fund (“USF”) amid changes in technology, market structure, and demographics. While these changing conditions may someday require additions or modifications to the list of core services, the Joint Board and the Commission should take care to avoid any changes that would unfairly restrict the field of carriers eligible for high-cost support.

¹ NECC is a licensed provider of Commercial Mobile Radio Service (“CMRS”) serving primarily rural areas of Colorado and Nebraska. NECC has applied for ETC status in Colorado.

² “Federal-State Joint Board on Universal Service Seeks Comment on Review of the Definition of Universal Service,” Public Notice, CC Docket No. 96-45 (rel. Aug. 21, 2001) (“Public Notice”).

NECC therefore opposes the modification of the list to include additional services.

NECC further believes that the definition of voice grade access should not be modified to include a higher level of bandwidth capacity.

A majority of the parties that submitted comments are similarly opposed to such changes to the list of core services. A minority of commenters, however, promote an unsupportable vision of universal service that would serve no purpose except to bolster the market position of incumbent local exchange carriers (“ILECs”). NECC opposes these recommendations as well as any other modifications to the list of core services that would undermine the key universal service goals of competitive and technical neutrality.³

II. THE LIST OF CORE SERVICES SHOULD NOT BE EXPANDED AT THIS TIME

NECC agrees with AT&T, Sprint, Verizon Wireless and others who argue that the existing list of core services satisfies the criteria set forth in Section 254(c)(1) of the Act and thus should not be expanded at this time.⁴ As a general matter, NECC believes that expanding the list of services would negatively impact competition and unfairly limit the number of service providers that qualify for eligible telecommunications carrier (“ETC”) status. Moreover, NECC believes that an expansion of the list could increase the price of

³ See Federal-State Joint Board on Universal Service, Report and Order, 12 FCC Rcd 8776, 8801 (¶¶ 46-47 (1997) (“Report and Order”).

⁴ See, e.g., Comments of the Ad Hoc Telecommunications Users Committee (“Ad Hoc Committee”), CC Docket No. 96-45 at 3-4 (filed Nov. 5, 2001); Comments of AT&T Corp., CC Docket No. 96-45 at 3 (filed Nov. 5, 2001); Comments of the Cellular Telecommunications & Internet Ass’n (“CTIA”), CC Docket No. 96-45 at 3 (filed Nov. 5, 2001); Comments of Sprint Corp., CC Docket No. 96-45 at 2 (filed Nov. 5, 2001); Comments of Verizon Wireless, CC Docket No. 96-45 at 2 (filed Nov. 5, 2001).

basic service, effectively making it available to fewer people. NECC briefly addresses some of the Joint Board's proposals below.

A. Advanced Services; Redefining Voice Grade Internet Access

Several commenters argue forcefully against adding any advanced or high-speed services to the list of core services.⁵ NECC agrees that advanced and high-speed services do not meet the criteria set forth in Section 254(c) and therefore should not be included in the list. Specifically, while advanced and high-speed services are being deployed on many carriers' networks throughout the country, such services have not yet been subscribed to by a majority of residential customers. Nor are they essential to education, public health, or public safety, since emergency medical care and other important contacts are accessible via basic telecommunications service. In addition, federal universal service support is already available for the provision of high-speed Internet access to schools, libraries, and rural health care providers. In these circumstances, adding advanced services to the list of core services — or redefining voice grade access as proposed in the Public Notice⁶ — would unnecessarily complicate the process of obtaining designation as an ETC, particularly for carriers that do not have the capability to support higher bit rates.⁷

Should the Joint Board and the Commission nonetheless conclude that support for advanced or high-speed services is warranted at this time, any proposed solution should

⁵ See, e.g., Comments of the Ad Hoc Committee at 5-8; Comments of Verizon Wireless at 4; Comments of WorldCom, Inc., CC Docket No. 96-45 at 11-12 (filed Nov. 5, 2001).

⁶ See Public Notice at 3 n.10.

⁷ See Comments of U.S. Cellular Corporation ("USCC"), CC Docket No. 96-45 at 2-7 (filed Nov. 5, 2001).

avoid adding an extra layer of services needed to qualify for high-cost support. For example, a new high-cost support program geared toward broadband deployment could allow a carrier to qualify for an additional level of high-cost support by demonstrating its commitment to provide advanced or high-speed service throughout its entire service territory. Such a mechanism could have the dual effect of reducing prices of advanced services for subscribers and providing the carrier with an incentive to aggressively offer advanced services throughout its service area. Because this additional level of support would not involve changing the criteria to qualify for ETC status, carriers that do not provide high-speed services would not be precluded from receiving any high-cost support. Moreover, if evenly applied to ILECs and their competitors, including wireless carriers, such a mechanism would not give undue advantage to particular classes of carrier or technology.⁸

B. Equal Access to Interexchange Service

NECC strongly opposes the suggestion by some commenters that the list should be expanded to include equal access to interexchange service as an eligible service.⁹

CMRS carriers are exempt from the equal access provisions of the Telecommunications

⁸ By contrast, BellSouth's "solution" to the broadband problem is to suggest that "the regulation of advanced telecommunications services offered by local exchange carriers should be reduced." Comments of BellSouth, CC Docket No. 96-45 at 6 (filed Nov. 5, 2001) (footnote omitted). NECC urges the Joint Board and the Commission to reject BellSouth's attempt to use this proceeding as yet another vehicle to request special broadband-related protection for ILECs.

⁹ See Comments of the Nebraska Rural Independent Companies ("Nebraska Companies"), CC Docket No. 96-45 at 2-5 (filed Nov. 5, 2001); Comments of the Organization for the Promotion and Advancement of Small Telecommunications Companies ("OPASTCO"), CC Docket No. 96-45 at 3-5 (filed Nov. 5, 2001).

Act of 1996.¹⁰ Likewise, OPASTCO's demand "that wireless carriers be classified as local exchange carriers upon designation as an ETC"¹¹ must be rejected. What is needed generally is less regulation, not more.

This posturing by incumbent telcos is nothing new. While claiming to promote a level playing field, these commenters merely seek to increase the already enormous advantage enjoyed by ILECs in the ETC designation process. While most ILECs were designated almost immediately upon the adoption of the federal ETC rules, carriers seeking competitive ETC status face long proceedings and opposition from ILECs seeking to forestall competitive entry. Indeed, one wireless carrier has noted that it may take as long as two years before a competitive ETC sees any federal universal service money at all.¹² Expanding the list in the manner proposed by OPASTCO would place additional, unwarranted burdens on wireless carriers seeking ETC designation with no corresponding public interest benefits. Accordingly, the Joint Board should reject those proposals.

¹⁰ 47 U.S.C. § 332(c)(8). See Personal Communications Industry Association's Broadband Personal Communications Services Alliance's Petition for Forbearance For Broadband Personal Communications Services, Memorandum Opinion and Order and Notice of Proposed Rulemaking, 13 FCC Rcd 16857, 16896 (¶ 79) ("we believe this provision reflects a determination on the part of Congress that equal access and unblocking requirements are generally unnecessary to protect consumers of CMRS.")

¹¹ Comments of OPASTCO at 5.

¹² See Federal-State Joint Board on Universal Service, CC Docket 96-45, Western Wireless Corporation Petition for Clarification or Rulemaking (filed Oct. 15, 1998).

III. CONCLUSION

For the reasons stated above, NECC urges the Joint Board to refrain from altering the definition of universal service to include additional services or a modified definition of voice grade access.

Respectfully submitted,

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